

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
In re	:
	:
	Chapter 7
DB 85 GYM CORP.,	:
d/b/a DAVID BARTON GYM,	:
	Case No. 16-13580 (SHL)
	:
Debtor.	:
-----X	
In re	:
	:
	Chapter 7
CLUB VENTURES III, L.L.C.,	:
d/b/a DAVID BARTON GYM,	:
	Case No. 16-13581 (SHL)
	:
Debtor.	:
-----X	
In re	:
	:
	Chapter 7
CLUB VENTURES X, LLC,	:
d/b/a DAVID BARTON GYM,	:
	Case No. 16-13582 (SHL)
	:
Debtor.	:
-----X	
In re	:
	:
	Chapter 7
CLUB VENTURES ARCHIVE LLC,	:
d/b/a DAVID BARTON GYM,	:
	Case No. 16-13616 (SHL)
	:
Debtor.	:
-----X	
In re	:
	:
	Chapter 7
CLUB VENTURES LIMELIGHT LLC,	:
d/b/a DAVID BARTON GYM,	:
	Case No. 16-13617 (SHL)
	:
Debtor.	:
-----X	
In re	:
	:
	Chapter 7
CLUB VENTURES MIAMI LLC,	:
d/b/a DAVID BARTON GYM,	:
	Case No. 16-13618 (SHL)
	:
Debtor.	:
-----X	

**STIPULATION AND ORDER DESIGNATING HOWARD BRODSKY
AS THE PERSON RESPONSIBLE TO PERFORM
THE RESPECTIVE DEBTORS' DUTIES UNDER THE BANKRUPTCY CODE**

The undersigned parties, Yann Geron (the “Trustee”), in his capacity as the chapter 7 trustee of the estates of DB 85 Gym Corp., Club Ventures III, L.L.C., Club Ventures X, LLC, Club Ventures Archive LLC, Club Ventures Limelight LLC, and Club Ventures Miami LLC, all of which did business as David Barton Gyms (each, a “Debtor” and collectively, the “Debtors”), the above-captioned debtors and Howard Brodsky (“Mr. Brodsky”), the Chief Executive Officer of each of the Debtors (together, the Trustee and Mr. Brodsky are referred to herein as the “Parties”), hereby stipulate and agree (the “Stipulation and Order”) as follows:

RECITALS

WHEREAS, on December 23, 2016 (the “Legacy Debtors Petition Date”), DB 85 Gym Corp., Club Ventures III, L.L.C., Club Ventures X, LLC (together, the “Legacy Debtors”)¹ each filed voluntary petitions for relief under chapter 7 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”); and

WHEREAS, on December 30, 2016 (the “Non-Legacy Debtors Petition Date”), Club Ventures Miami LLC, Club Ventures Archive LLC and Club Ventures Limelight LLC (together, the “Non-Legacy Debtors”) each filed voluntary petitions for relief under chapter 7 of the Bankruptcy Code in the Bankruptcy Court; and

WHEREAS, Mr. Brodsky signed each of the Debtors’ bankruptcy petitions as the Chief Executive Officer of each of the respective Debtors and is an officer of each of the Debtors as prescribed under Bankruptcy Rule 9001(5); and

¹ These Debtors are referred to as the Legacy Debtors because they are entities that emerged from a prior chapter 11 bankruptcy filing that was filed in the Bankruptcy Court under Case No. 11-10891 (ALG), with Club Ventures Investments LLC as the lead debtor case.

WHEREAS, following the Legacy Debtors Petition Date and the Non-Legacy Debtors Petition Date, Yann Geron was appointed as interim Chapter 7 Trustee of each of the respective Debtors' cases; and

WHEREAS, the dockets for each of the respective Debtors' cases identifies each of the filings as incomplete and requires the Legacy Debtors to file its bankruptcy schedules and statements of financial affairs by January 6, 2017 [ECF No. 1] and the Non-Legacy Debtors to do so by January 13, 2017 [ECF No. 1]; and

WHEREAS, as of the date of this Stipulation and Order, none of the Debtors have filed schedules or statements of financial affairs; and

WHEREAS, the initial Section 341 meeting of creditors in the Legacy Debtors cases is currently scheduled for January 24, 2017; and

WHEREAS, the initial Section 341 meeting of creditors in the Non-Legacy Debtors cases is currently scheduled for February 17, 2017; and

WHEREAS, as to each of the Debtors, Mr. Brodsky has agreed to be designated the debtor, as such term is used in Rule 9001(5) of the Federal Rules of Bankruptcy Procedure, ; and

NOW, THEREFORE, IT IS, hereby stipulated and agreed, by, between, and among the Parties hereto, as follows:

1. Pursuant to Bankruptcy Rule 9001(5), as to each of the Debtors, Mr. Brodsky is designated the debtor, as such term is used in Rule 9001(5) of the Federal Rules of Bankruptcy Procedure, and is therefore required to perform any and all act required of the Debtors by the Federal Rules of Bankruptcy Procedure.

2. Mr. Brodsky agrees to cooperate with the Trustee and his retained professionals as reasonably necessary to enable the Trustee to perform his duties under the Bankruptcy Code.

3. Mr. Brodsky shall attend and testify at the initial section 341 meeting of creditors, as scheduled by the Bankruptcy Court, and any subsequent adjournments until such meeting is closed by the Trustee.

4. The Trustee may seek the Bankruptcy Court's assistance in enforcing this Stipulation and Order.

5. The Trustee expressly reserves his rights to take all reasonable and necessary measures under the Bankruptcy Code to enforce this Stipulation and Order or otherwise compel Mr. Brodsky and/or the Debtors to comply with their obligations under the Bankruptcy Code.

6. This Stipulation is contingent upon Bankruptcy Court approval and shall not be enforceable until such approval is obtained.

7. The Parties consent to the Bankruptcy Court's exclusive jurisdiction over this Stipulation, and the Bankruptcy Court shall retain exclusive jurisdiction over all disputes arising under this Stipulation.

8. This Stipulation may be signed by the Parties in counterparts and electronic copies with the same force and effect as if fully and simultaneously signed on a single original document.

Dated: New York, New York
January , 2017

New York, New York
January 10, 2017

ROSEN & ASSOCIATES, P.C.
Attorneys for the Debtors

FOX ROTHSCHILD LLP
*Proposed Attorneys for Yann Geron, Interim
Chapter 7 Trustee*

By: /s/ Sanford P. Rosen
Sanford P. Rosen
Alice Ko
747 Third Avenue, Floor 20
New York, New York 10017
(212) 223-1100
srosen@rosenpc.com

By: /s/ Yann Geron
Yann Geron
Kathleen M. Aiello
100 Park Avenue, 15th Floor
New York, New York 10017
(212) 878-7900
ygeron@foxrothschild.com

BY: /s/ Howard Brodsky
Howard Brodsky, Chief Executive Officer of the Debtors

SO ORDERED

Dated: New York, New York
January ___, 2017

Honorable Sean H. Lane
United States Bankruptcy Judge